

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

COAST TO COAST TITLE, LLC, et al.,

Plaintiffs

v.

TYRRELL L. GARTH, et al.,

Defendants.

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Civil Action No. 4:24-cv-02767

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**DEFENDANTS TYRRELL L. GARTH AND PHILLIP H. CLAYTON'S REPLY IN  
SUPPORT OF THEIR MOTION TO DISMISS**

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Defendants Tyrrell L. Garth and Phillip H. Clayton filed their Motion to Dismiss Pursuant to Rules 12(b)(6) and 9(b) on October 28, 2024. Dkt. No. 17. On November 18, 2024, Plaintiffs filed their First Amended Complaint [Dkt. No. 27] as well as their Response to Defendants Garth and Clayton's Motion to Dismiss. Dkt. No. 29.

Plaintiffs' First Amended Complaint drops the cause of action for fraud based on common law forgery previously asserted against Garth. Dkt. No. 1-2 ¶¶ 372-381; Dkt. No. 27 ¶¶ 403-419; Dkt. No. 29 ¶ 9. Garth's motion to dismiss that cause of action is accordingly moot. *Secure Cash Network, Inc. v. Washington Fed., Inc.*, No. H-09-1561, 2009 WL 2351755, at \*2 (S.D. Tex. July 29, 2009) (Rosenthal, J.).

Plaintiffs' First Amended Complaint, however, adds additional factual allegations and causes of action not previously asserted against Garth or Clayton. *See* Dkt. No. 27 ¶¶ 513-33 (asserting a new cause of action for common law fraud against Garth and Clayton); ¶¶ 534-42 (asserting a new cause of action for unjust enrichment against Garth and Clayton); ¶¶ 543-550

(asserting a new cause of action for fraudulent inducement related to the Management Services Agreement against Garth and Clayton). While Garth and Clayton continue to believe Plaintiffs' First Amended Complaint is deficient for many, if not all, of the same reasons set forth in their original Motion to Dismiss, Defendants also recognize that "issues related to the amended complaint are most efficiently resolved in a single motion to dismiss." *Hymes v. AmCap Mortg., Ltd.*, No. CV H-19-515, 2019 WL 1748678, at \*3 (S.D. Tex. Apr. 18, 2019) (Rosenthal, J.).

Garth and Clayton are accordingly filing this brief reply in order to provide notice to the Court of their intent to file a new motion to dismiss addressing Plaintiffs' First Amended Complaint on December 2, 2024 in accordance with Federal Rule of Civil Procedure 15(a)(3).

Dated: November 25, 2024

Respectfully submitted,

**BECK REDDEN LLP**

By: /s/ Fields Alexander  
Fields Alexander – *Attorney in Charge*  
State Bar No. 00783528  
Federal Bar No. 16427  
falexander@beckredden.com  
Amy Parker Beeson – *of Counsel*  
State Bar No. 24051156  
Federal Bar No. 626178  
abeeson@beckredden.com  
Kaitie Sorenson – *of Counsel*  
State Bar No. 24128633  
Federal Bar No. 3859186  
ksorenson@beckredden.com  
1221 McKinney St., Suite 4500  
Houston, Texas 77010-2010  
Telephone No. (713) 951-3700  
Facsimile No. (713) 951-3720

**ATTORNEYS FOR DEFENDANTS  
TYRRELL L. GARTH AND PHILLIP H.  
CLAYTON**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 25, 2024, I served the foregoing notice via the CM/ECF system, which will provide notice to all parties of record.

By /s/ Fields Alexander  
Fields Alexander